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Attorney for Plaintiff, Sandra Avila

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Sandra Avila,

Plaintiff,

v.

Kilolo Kijakazi, Acting Commissioner of
Social Security,

Defendant.

Case No. 1:20-cv-01710-EPG

**STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT; ORDER**

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of EIGHT HUNDRED THIRTY-ONE DOLLARS AND 12/100 (\$831.12) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

1 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
2 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
3 and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any
4 payments made shall be delivered to Plaintiff's counsel, Jonathan O. Peña.

5 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
6 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
7 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
8 and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA
9 attorney fees in connection with this action.

10 This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social
11 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
12 EAJA.

13 Respectfully submitted,

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15 Dated: August 12, 2021

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

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17
18 Dated: August 12, 2021

PHILLIP A. TALBERT
Acting United States Attorney
DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX
Social Security Administration

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21 By: * Marcelo N. Illarmo
22 Marcelo N. Illarmo
23 Special Assistant U.S. Attorney
24 Attorneys for Defendant
25 (*Permission to use electronic signature
26 obtained via email on August 12, 2021)
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ORDER

Based upon the parties' Stipulation for the Award and Payment of Attorney Fees and Expenses Pursuant to the Equal Access to Justice Act (ECF No. 16), IT IS ORDERED that fees and expenses in the amount of \$831.12 as authorized by 28 U.S.C. § 2412 be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **August 13, 2021**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE